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13 NSS Labs, Inc.

14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 NSS LABS, INC.,

17 Plaintiff,

18 v.

19 CROWDSTRIKE, INC., SYMANTEC  
20 CORPORATION, ESET, LLC, ANTI-  
21 MALWARE TESTING STANDARDS  
22 ORGANIZATION, INC. AND DOES 1-50,  
23 INCLUSIVE,

24 Defendants.

CASE NO. 5:18-CV-05711-BLF

**DECLARATION OF IAN N FEINBERG  
IN SUPPORT OF PLAINTIFF'S  
OPPOSITION TO ANTI-MALWARE  
TESTING STANDARDS  
ORGANIZATION, INC.'S MOTION FOR  
ATTORNEYS' FEES**

Date: April 2, 2020

Time: 9:00 AM

Location: Crtm 3, San Jose

Judge: Hon. Beth Labson Freeman

1 I, Ian N Feinberg, declare as follows:

2 1. I am an attorney licensed to practice in the State of California and the Northern  
3 District of California since December 1979, and counsel of record to plaintiff NSS Labs, Inc.  
4 (“NSS”) in this matter.

5 2. The same day I received AMTSO’s fee motion (December 17, 2019), I sent an email  
6 to AMTSO’s counsel advising counsel that the California Supreme Court’s unanimous decision in  
7 *Newport Harbor Ventures v. Morris Cerullo World Evangelism*, 4 Cal. 5th 637 (2018) barred  
8 AMTSO’s anti-SLAPP Motion and therefore also AMTSO’s Fee Motion. A true and correct copy  
9 of my December 17, 2019 email is attached hereto as **Exhibit A**.

10 3. The next day AMTSO’s counsel responded by email asserting that *New Harbor*  
11 *Ventures* did not bar AMTSO’s anti-SLAPP Motion and therefore AMTSO’s Fee Motion. A true  
12 and correct copy of AMTSO counsel’s December 18, 2019 email is attached hereto as **Exhibit B**.

13 4. NSS has incurred \$9,107.50 in fees opposing AMTSO’s Fee Motion, consisting of  
14 15.1 hours of my hours of my time at \$525 per hour (\$7,927.50) and 4.0 hours of paralegal  
15 George Huggins’ time at \$295 per hour (\$1180.00). None of my time in preparing a response to  
16 AMTSO’s anti-SLAPP Motion before receiving AMTSO’s Fee Motion is included in this time;  
17 which begins only after receiving AMTSO’s Fee Motion.

18 5. I know the foregoing of my own knowledge and if called as a witness could  
19 competently testify thereto.

20 I declare under penalty of perjury under the laws of the United States of America that the  
21 foregoing is true and correct.

22 Dated: December 31, 2019

23 /s/ Ian N. Feinberg  
24 Ian N. Feinberg